

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-14 and 23-29 are again rejected under 35 U.S.C. 102(b) as being anticipated by Sheinman et al. US Patent No. 6,241,752.

Sheinman et al. disclose apparatus and methods of use for treating impotence by applying to the genitalia a monochromatic light in the wavelength range of 440-960 nm as presently claimed.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 15-22 30 and 31 are again rejected under 35 U.S.C. 103(a) as being unpatentable over Sheinman et al. in view of Boutos US Patent No. 5,571,118.

Sheinman et al. does not teach a method for applying light to a female genital organs and their device is not configured to conform the entire female genitalia as presently claimed. Boutos teaches an alternative apparatus and methods of use for

stimulating both male and female genitalia. Hence, at the time of the applicant's invention, it would have been obvious to one skilled in the art to modify the Sheinman et al in view of Boutos so as to stimulate female genital organs as claimed.

Response to Arguments

Applicant's arguments filed on September 12, 2007 have been fully considered but they are not persuasive. Applicants make the following arguments:

1. Applicants argue that Sheinman (US Pat. 6,241,752) is "relegated to lasers" (monochromatic light source), whereas their invention employs polychromatic light source such as LEDs.

In response to this argument, applicants' instant claims fail to teach or suggest that the treatment light source is a broadband light source (polychromatic) as argues. Moreover, contrary to the applicants' argument, claims 4 and 25 of the instant application clearly teach that the treatment light source provides a "monochromatic light."

2. Applicants argue that Sheinman patent ('752) uses a mechanism for moving light along the length of the penis whereas their invention "consists of mechanically static apparatus which floods the genitalia with a geographically broad exposure of polychromatic infrared light."

In response to this argument, applicants' claims fail to recite apparatus or method of use for treating erectile sexual dysfunction by applying light to erectile genitalia tissue, wherein the apparatus consists of mechanically static apparatus, which

floods the genitalia with a geographically broad exposure of polychromatic infrared light as argued. Moreover, Figures 1 and 6 of Sheinman clearly show that the applicator 4, which includes a supporting plate 40, defines a cylindrical cavity configured to hold the penis during light application/irradiation. The moving light distribution mechanism of Sheinman is outside of the applicator. Therefore, this applicator provides static light delivery.

3. US Patent No. 5,571,118 to Boutos teaches an alternative apparatus and method for stimulating both male and female genitalia. Although Boutos does not teach light stimulation of genitalia, this patent is incorporated into the Office Action in order to show alternative methods for stimulating female genitalia are known in the art.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ahmed M. Farah whose telephone number is (571) 272-4765. The examiner can normally be reached on Mon, Tue, Thur and Fri between 9:30 AM 7:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marmor II Charles can be reached on (571) 272-4730. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ahmed M Farah/
Primary Examiner, Art Unit 3735

November 26, 2007.